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7

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 MICHAEL PETTENDER,

15 Defendant.  
16

Case No. 1:20-cr-00139-DAD-BAM

**STIPULATION TO CONTINUE  
EVIDENTIARY HEARING; ORDER**

Date: April 6, 2021  
Time: 9:30 a.m.  
Judge: Dale A. Drozd

17 IT IS HEREBY STIPULATED, by and between the parties through their respective  
18 counsel, Assistant United States Attorney David Gappa, counsel for plaintiff, and Assistant  
19 Federal Defender Reed Grantham, counsel for Michael Pettenger, that the evidentiary hearing  
20 currently scheduled for April 6, 2021, at 9:30 a.m. may be continued to April 13, 2021, at 9:30  
21 a.m.

22 On March 1, 2021, this Court held a motion hearing in this matter with respect to the  
23 defense's motion to suppress filed on December 18, 2020. *See* Dkt. #31, Dkt. #22. At the  
24 conclusion of the hearing, the Court set an evidentiary hearing for April 6, 2021, at 9:30 a.m. *See*  
25 Dkt. #31. Following the March 1, 2021 motion hearing, defense counsel consulted with the  
26 defense expert in this matter, Arthur Hively, who indicated that he is not available on April 6,  
27 2021, or any day that week, as he is scheduled to testify in a trial in another matter during that  
28 time. Mr. Hively did indicate that he would be available the following week. Defense counsel

1 has communicated this to government counsel, who has indicated that the government and its  
2 witness(es) are available on April 13, 2021. Accordingly, the parties request that the currently set  
3 April 6, 2021 evidentiary hearing be continued one week to April 13, 2021, to accommodate  
4 defense expert availability.

5 The parties agree that the delay resulting from the continuance to April 13, 2021, shall be  
6 excluded in the interests of justice, including but not limited to, the need for the period of time  
7 set forth herein for the Court's consideration and disposition of the defense motion, pursuant to  
8 18 U.S.C. § 3161(h)(1)(D).

9  
10 Respectfully submitted,

11 PHILLIP A. TALBERT  
12 Acting United States Attorney

13 Date: March 5, 2021

/s/ David Gappa  
14 DAVID GAPPA  
15 Assistant United States Attorney  
Attorney for Plaintiff

16 HEATHER E. WILLIAMS  
17 Federal Defender

18 Date: March 5, 2021

/s/ Reed Grantham  
19 REED GRANTHAM  
20 Assistant Federal Defender  
Attorney for Defendant  
MICHAEL PETTENDER

**ORDER**

**IT IS SO ORDERED.** The evidentiary hearing currently scheduled for April 6, 2021, at 9:30 a.m. is hereby continued to April 13, 2021, at 9:30 a.m. The parties remain under the Court's previous order to advise the Court as to whether or not the evidentiary hearing is going forward and to disclose to the other side any witnesses they intend to call at the evidentiary hearing no later than a week before the April 13, 2021 hearing.

**IT IS FURTHER ORDERED THAT** the period of time from the date of the last court appearance through April 13, 2021, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(1)(D) because it is attributable to a delay resulting from the filing of the defense motion and the time needed for the Court's consideration and disposition of the motion, and the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

IT IS SO ORDERED.

Dated: **March 5, 2021**

  
UNITED STATES DISTRICT JUDGE